

**SURFACE TRANSPORTATION BOARD  
WASHINGTON, DC 20423**

**ENVIRONMENTAL ASSESSMENT**

**STB DOCKET NO. AB-167 (Sub-No. 1188X)**

**Consolidated Rail Corporation – Abandonment Exemption –  
in Wayne County, MI**

**BACKGROUND**

In this proceeding, Consolidated Rail Corporation (Conrail) filed a notice of exemption under 49 CFR 1152.50 seeking exemption from the requirements of 49 U.S.C. 10903 in connection with the abandonment of two contiguous lines of railroad in Wayne County, Michigan, which is in the Detroit metro area. One rail line is known as the Detroit Terminal West Industrial Track and extends between milepost 7.70 near Joseph Campau Street and milepost 10.30 near Woodrow Wilson Street. The other rail line is known as the Highland Park Industrial Track and extends between milepost 7.40 near Woodrow Wilson Street and milepost 5.7 near Cloverdale Street.<sup>1</sup> A map depicting the rail line in relationship to the area served is appended to the Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

Conrail submitted an environmental report that concludes the quality of the human environment will not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. Conrail served the environmental report on a number of appropriate Federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 CFR 1105.7(b)].<sup>2</sup> The Board's Section of Environmental Analysis (SEA) has reviewed and investigated the record in this proceeding.

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<sup>1</sup> The Detroit Terminal West Industrial Track and the Highland Park Industrial Track will be referred to in this Environmental Assessment as "the line."

<sup>2</sup> The railroad's environmental and historic reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB-167 (Sub-No. 1188X).

### ***Diversion of Traffic***

Conrail states that no local or overhead traffic has moved over the line for at least two years. Accordingly, the proposed abandonment would not adversely impact the development, use, and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### ***Salvage Activities***

As part of the proposed salvage activities, Conrail states that it intends to salvage rail, ties, and track material from the line, but it has no plans to dispose of the structures on the line. Conrail further states that no clearing, grading, or alternation of the topography would result from the proposed abandonment. Moreover, there would be no dredging or discharge of fill material into navigable waters, and there would be no discharge of any pollutant.

The line passes through residential and industrial areas, and Conrail does not believe that the right-of way would be suitable for alternative public use. There are two undergrade bridges on the line, one of which was built in 1936. There is one overhead bridge that is a highway bridge carrying Interstate Route 75; however, that bridge is not a railroad-owned structure. The right-of-way is generally 66 feet in width.

The National Geodetic Survey (NGS) identified three geodetic station markers that may be affected by the proposed abandonment. Therefore, we will recommend that Conrail notify NGS at least 90 days prior to beginning salvage activities in order to plan for their possible relocation by NGS.

The Natural Resources Conservation Service (NRCS) submitted comments stating that the proposed abandonment will not have a negative impact on the county's prime and unique farmland. Accordingly, no mitigation measures were recommended by NRCS.

The Michigan Department of Environmental Quality's (MDEQ) Land and Water Management Division reviewed the proposed project for consistency with Michigan's Coastal Management Program and indicated that the line is located outside of Michigan's coastal management boundary. Accordingly, no adverse impacts to coastal resources are anticipated.

Conrail reviewed the Michigan Department of Natural Resources' website and no endangered species were identified within the proposed project area. In addition, the U.S. Fish and Wildlife Service (USFWS) submitted comments stating that there are no Federally-listed species near the site of the proposed abandonment.<sup>3</sup> The USFWS'

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<sup>3</sup> Conrail contacted USFWS in April 2006, and USFWS confirmed that there have been no updates to the endangered species list.

Division of Realty also reviewed the proposed project and determined that it does not own any lands in the vicinity. Accordingly, no mitigation measures were recommended.

The Michigan Department of Transportation (MDOT) had no objections to the proposed project as long as MDOT easements over portions of this property remain intact. MDOT also indicated that disposal of rail lines are subject to the “Right of First Refusal Provisions Act 295 of 1976,” as amended. Conrail has confirmed that any MDOT easements will remain intact and states that it will comply with any obligations that it may have under the Right of First Refusal Provisions Act.

The proposed abandonment would not include in-stream salvage of any bridges or dredging or discharge of fill materials into navigable waters. Therefore, a U.S. Army Corps of Engineers (Corps) permit under Section 404 of the Clean Water Act (33 U.S.C. 1344) would not be required. However, the Corps’ Detroit District indicated that some of its responsibilities were transferred to the MDEQ, and the site of the proposed project is no longer within the Corps’ jurisdiction. Therefore, the Corps recommends that Conrail contact Ms. Peg Bostwick at the Lake and Stream Protection Unit, Geological and Land Management Division of MDEQ, for a determination of state permit requirements. Accordingly, prior to commencement of any salvage activities, we recommend that Conrail consult with MDEQ regarding state permit requirements and comply with the reasonable requirements.

The U.S. Environmental Protection Agency, Region 5 (USEPA), provided a number of comments regarding the proposed abandonment. USEPA recommended that Conrail consult with the Michigan Department of Environmental Quality (MDEQ) in order to determine whether a Section 402 permit covering stormwater runoff from construction activities is necessary. Accordingly, we will recommend that, prior to commencement of any salvage activities, the railroad consult with MDEQ to ensure that applicable stormwater management requirements are addressed. USEPA also requested that rails, crossties, and any ancillary structures and materials be recycled or appropriately disposed. We will recommend that a condition be imposed requiring Conrail to comply with USEPA’s specific recommendations pertaining to salvage activities on this proposed project.

USEPA recommended that Conrail contact the Federal Highway Administration (FHWA) because the line crosses Woodward Avenue, which is a designated National Byway.<sup>4</sup> As requested, Conrail contacted FHWA, and FHWA had no concerns regarding the proposed abandonment. Additionally, USEPA recommended that Conrail contact the Michigan State Historic Preservation Office regarding the historic Ford Motor Plant that is located in the area of the proposed abandonment. Historic preservation is addressed below.

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<sup>4</sup> The National Scenic Byways Program was established to help recognize, preserve, and enhance selected roads throughout the United States.

Conrail states that it is not aware of any hazardous waste sites or sites where there have been hazardous material spills on the right-of-way. However, USEPA states that there are many abandoned industrial sites that have identified hazardous waste issues along the right-of-way and recommends that the Board discuss potential redevelopments or future uses of the right-of-way. SEA conducted a search of USEPA's Toxics Release Inventory database at [www.epa.gov/tri/#whatistri](http://www.epa.gov/tri/#whatistri), which did contain information regarding toxic chemical releases and/or other waste management activities in the area of the proposed project. Accordingly, we will recommend that Conrail consult with the USEPA prior to commencement of any salvage activities to ensure that any concerns regarding potential contamination of the right-of-way are addressed. We will also recommend that Conrail report the results of these consultations in writing to the Board's Section of Environmental Analysis prior to the onset of salvage operations.

In the event that abandonment authority is granted and Conrail abandons the line, the Board would not have jurisdiction over future use of the right-of-way. Accordingly, SEA does not recommend environmental conditions regarding the post-abandonment use of the right-of-way.<sup>5</sup>

## **ENVIRONMENTAL JUSTICE**

USEPA has indicated that the proposed abandonment is located in the community of Highland Park, which is an economically depressed community that qualifies for Environmental Justice consideration. "Environmental Justice" is defined in Executive Order 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (EO 12898).<sup>6</sup> EO 12898 directs Federal agencies to "promote nondiscrimination in Federal programs substantially affecting human health and the environment and provide minority and low-income communities access to public information on, and an opportunity for public participation in, matters relating to human health or the environment." EO 12898 also directs agencies to use existing law to ensure that when they act:

- they do not discriminate on the basis of race, color, or national origin;

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<sup>5</sup> It is well settled that in conducting environmental review in abandonment cases, the Board's role is limited to the anticipated impacts of the abandonment proposal before the agency, e.g., the likely diversion of traffic to other lines or transportation modes and the likely disruptive consequences of removing the track and related structures. Iowa Southern R. Co.-Exemption-Abandonment, 5 I.C.C.2d 496, 501(1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990).

<sup>6</sup> The Board, as an independent regulatory agency, is not decisionally part of the executive branch of the Federal government. As an independent regulatory agency, the Board is not legally bound by Executive Orders, nevertheless, the Board makes every effort to comply with the intent of applicable Executive Orders for projects subject to its authority.

- they identify and consider disproportionately high and adverse human health or environmental effects of their action on minority and low-income communities; and
- they provide opportunities of communities' input in the National Environmental Policy Act of 1969 process, including input on potential effect and mitigation measures.

As stated above, the proposed project is located in a community composed of residential and industrial areas. According to the U.S. Census Bureau, 16.5% of people in Wayne County were classified as below poverty level in 2003.<sup>7</sup> Under the circumstances, SEA assessed the potential impacts of the proposed abandonment to determine if it could result in disproportionately high or adverse impacts on minority or low-income communities. Based on available information, SEA determined that the proposed abandonment does not warrant an Environmental Justice analysis because abandonment (defined here as discontinuance of service over a dormant line and authority to dismantle the tracks) would not adversely affect the community. Rather, SEA believes that abandonment of this segment could have a beneficial impact in the areas of noise and safety by removing the rail line from the community.

### ***Additional Comments***

The Southeast Michigan Council of Governments (SEMCOG) submitted comments stating that the proposed abandonment should not have a deleterious effect on the surrounding community, since the tracks have been inoperable for several years. SEMCOG's 2030 Regional Transportation Plan calls for the preservation of transportation rights-of-way for the purpose of enhancing the community and economic vitality, and SEMCOG notes that the potential sale of abandoned rights-of-way could assist in achieving this goal. However, there is no Transportation Improvement Project associated with this line. Accordingly, SEMCOG states that there appear to be no potential problems associated with the proposed abandonment.

The City of Detroit Planning and Development Department (Detroit Planning and Development) has reviewed the proposed project and determined that it aligns with the goals and policies of the Planning and Development Department's Revised City of Detroit Master Plan of Policies (2004). Accordingly, Detroit Planning and Development supports the proposed abandonment.

The Charter County of Wayne (Wayne County) reviewed the proposed abandonment and determined that it will not adversely affect any county infrastructure improvements or any current or proposed economic development projects. Wayne County did express an interest in purchasing the property under 49 U.S.C. 10904.

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<sup>7</sup> See the U.S. Census Bureau's website at <http://quickfacts.census.gov/qfd/states/26/26163.html>.

Based on all information available to date, SEA does not believe that salvage activities would cause significant environmental impacts. SEA is providing a copy of this EA to the following agencies for review and comment: NGS; MDEQ; USEPA; SEMCOG; Detroit Planning and Development; Wayne County; and the City of Highland Park.

## **HISTORIC REVIEW**

Conrail submitted the historic report on the Michigan Historical Center (the State Historic Preservation Office or SHPO), pursuant to 49 CFR 1105.8(c). Conrail notes that the proposed abandonment is located over 200-feet from the Highland Park Ford Plant (Ford Plant), which is a National Historic Landmark (NHL). NHLs are nationally significant historic places designated by the Secretary of the Interior because they possess exceptional value or quality in illustrating or interpreting the heritage of the United States.<sup>8</sup> SEA consulted with the SHPO and Conrail to determine what effect, if any, the proposed abandonment might have on the Ford Plant.

The SHPO has submitted comments stating its opinion that the effects of the proposed undertaking do not meet the criteria of adverse effect. Therefore, the SHPO determined that the proposed project will have no adverse effect on the Ford Plant, which is a National Historic Landmark. We have reviewed the report and the information provided by the SHPO and concur with the SHPO's comments.

Pursuant to the Advisory Council on Historic Preservation's regulations for implementing the section 106 process of the National Historic Preservation Act at 36 CFR 800.4(d) and 36 CFR 800.8, we have determined that the proposed abandonment will not affect historic properties listed in or eligible for inclusion in the National Register. The documentation for this finding, as specified at 36 CFR 800.11(d), consists of the railroad's historic report, all relevant correspondence, and this EA, which have been provided to the SHPO and made available to the public.

The SHPO has requested to be contacted immediately if any artifacts or bones are discovered during abandonment activities. Accordingly, we will recommend a condition that in the event that Conrail does discover unanticipated archaeological sites, human remains, funerary items, or associated artifacts during salvage operations, that it shall immediately cease work and notify SEA, the SHPO and any Federally recognized tribe that may have an interest, and consult with them to determine whether any mitigation measures are necessary.

SEA also conducted a search of the Native American Consultation Database at [www.cast.uark.edu/other/nps/nacd/](http://www.cast.uark.edu/other/nps/nacd/) to identify Federally recognized tribes that may have ancestral connections to the project area. The database indicated that the following tribes may have an interest in the proposed abandonment: Forest County Potawatomi

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<sup>8</sup> See the National Park Service's National Historic Landmark Program at <http://www.cr.nps.gov/nhl>.

Community, Wisconsin and Hannahville Indian Community, Michigan. Accordingly, SEA is sending a copy of this EA to these tribes for their review and comment.

## **CONDITIONS**

SEA recommends that the following environmental conditions be placed on any decision granting abandonment authority:

1. The National Geodetic Survey (NGS) identified three geodetic station markers that may be affected by the proposed abandonment. Therefore, Consolidated Rail Corporation shall notify NGS at least 90 days prior to beginning salvage activities in order to plan for their possible relocation by NGS.
2. Based on the comments of the U.S. Army Corps of Engineers and the U.S. Environmental Protection Agency, Consolidated Rail Corporation shall contact the Michigan Department of Environmental Quality prior to commencement of any salvage activities regarding applicable stormwater management requirements and any other state permit requirements and comply with the reasonable requirements.
3. Based on the recommendations of the U.S. Environmental Protection Agency, Consolidated Rail Corporation shall conduct salvage activities in the following manner: recycle or appropriately dispose of rails, crossties, and any ancillary structures and materials.
4. Prior to commencement of any salvage activities, Consolidated Rail Corporation (Conrail) shall consult with the U.S. Environmental Protection Agency, Region 5, and the Michigan Department of Environmental Quality in order to ensure that any concerns regarding potential contamination of the right-of-way are addressed. Conrail shall report the results of these consultations in writing to the Board's Section of Environmental Analysis prior to the onset of salvage operations.
5. In the event that any archaeological sites, human remains, funerary items or associated artifacts are discovered during the railroad's salvage activities, Consolidated Rail Corporation shall immediately cease all work and notify the Section of Environmental Analysis (SEA), interested Federally recognized tribes, and the Michigan Historical Center (State Historic Preservation Office or SHPO). SEA shall then consult with the SHPO, interested Federally recognized tribes, and the railroad to determine whether any mitigation measures are necessary.

## **CONCLUSIONS**

Based on the information provided from all sources to date, SEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line will not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

### **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite four-part showing for imposition of a public use condition (49 CFR 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

### **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 CFR 1152.29).

### **PUBLIC ASSISTANCE**

The Board's Office of Public Services (OPS) responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact OPS directly at (202) 565-1592, or mail inquiries to Surface Transportation Board, Office of Public Services, Washington, DC 20423.

### **COMMENTS**

If you wish to file comments regarding this EA, send an **original and two copies** to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Christa Dean who prepared this EA. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB-167 (Sub-No. 1188X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions regarding this EA, please contact Christa Dean the environmental contact for this case, by phone at (202) 565-1606, fax at (202) 565-9000, or e-mail at [deanc@stb.dot.gov](mailto:deanc@stb.dot.gov).



Date made available to the public: June 23, 2006.

**Comment due date: July 10, 2006.**

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Vernon A. Williams  
Secretary

Attachment